

City Council Meeting Minutes

**June 11 2019
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: *Mayor Robert Muckle
Mayor Pro Tem Jeff Lipton
Councilmember Jay Keany
Councilmember Chris Leh (arrived 7:07 pm)
Councilmember Susan Loo
Councilmember Dennis Maloney
Councilmember Ashley Stolzmann*

Staff Present: *Heather Balsler, City Manager
Megan Davis, Deputy City Manager
Kevin Watson, Finance Director
Rob Zuccaro, Planning & Building Safety Director
Meredyth Muth, City Clerk*

Others Present: *Kathleen Kelly, City Attorney*

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Councilmember Loo. All in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Fire Chief John Willson, Louisville Fire Department, gave his quarterly update noting the District is doing a mail survey on a possible mill levy increase. He stated the results will be publicized. He gave safety tips for barbeque grills including keeping them outside, keeping them clean, and not leaving them unattended.

APPROVAL OF THE CONSENT AGENDA

MOTION: Mayor Muckle moved to approve the consent agenda, seconded by Councilmember Keany.

Councilmember Stolzmann stated she was voting no as she did not feel the May 28 meeting minutes were reflective of the meeting.

Vote: 5-1; Councilmember Stolzmann voting no.

- A. *Approval of Bills***
- B. *Approval of Minutes: May 28, 2019; June 4, 2019***
- C. *Approval of Resolution No. 20, Series 2019 – A Resolution Approving a Business Assistance Agreement with JumpCloud, Inc. for an Economic Development Project in the City of Louisville***

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

None.

CITY MANAGER'S REPORT

City Manager Balsler wished everyone a happy July 4th noting the City Council will not be meeting again until July 9th.

REGULAR BUSINESS

DISCUSSION/DIRECTION/ACTION – REVITALIZATION COMMISSION CRITERIA FOR CONSIDERING DIRECT FINANCIAL ASSISTANCE APPLICATIONS – *continued from 6/4/19*

City Manager Balsler stated the City Council gave initial comments on this criteria at the June 4, 2019 City Council meeting. She noted this policy would apply when the Louisville Revitalization Commission (LRC) is considering a Tax Increment Financing (TIF) application for direct financial assistance for private development projects.

She noted three additional edits that should have been included:

- Page 2 – “three or more” instead of several
- Page 3 - #3 in criteria – deleted
- Page 4 - Shall instead of may – “shall be referred at LRC expense”

City Manager Balser noted the LRC met on Monday and they have one suggestion to remove Criteria #7 as they feel it is not necessary. A project would not come to them unless a PUD has been approved and would therefore be compliant with all of the City's regulations; this would have already occurred and thus they felt that criteria is not necessary. The LRC had some suggested language more specifically for downtown. Balser asked for any further policy direction.

Public Comments

Steve Fisher, 1860 West Centennial Dr., Chairman of the LRC, stated they struggled with this but feel it makes sense to have criteria in place so everyone knows what to expect and what projects qualify for this type funding. He felt there should be a decision tree to walk through this process. This might be a way to organize the criteria. He added we don't want to make it so hard it is impossible to qualify.

Mayor Pro Tem Lipton asked if members of the LRC did not want this assistance policy. Mr. Fisher noted a couple of members were not in favor but the majority were.

David Sinkey, 712 Main St., Boulder Creek Homes, stated he is interested in TIF tools in a broad sense and the City should use these tools to shape the outcomes it wants to see and that aligns with the code and the TIF criteria. He appreciates trying to bring clarity to the process. He stated there should be a distinction this is a rebate not a subsidy. The point is to encourage a capital expenditure. There may still be an economic gap for a project and that is where the TIF tool comes into play. He felt the tool is a benefit to the City. It should not be called subsidy or corporate welfare.

Councilmember Stolzmann asked for clarification concerning the material in the packet and the changes presented by City Manager Balser. Balser noted the three items she spoke about were in addition to what was already in the draft of the policy.

Councilmember Stolzmann asked for a printed copy with the changes.

Councilmember Loo stated she would like to address the historic criteria and wanted a more positive approach. She noted Lincoln, Nebraska's TIF guidelines states "rehabilitates a designated City landmark, a building listed on or eligible for listing on the national register for historic places, or a building located within a local landmark district"; it should be less about what not to do than development we want to encourage.

Mayor Muckle stated we want it to be clear we don't want something to be detrimental to historic preservation. He liked the draft language. Councilmember Maloney liked the language presented by staff.

Members took a short break to allow staff to make hard copies of the three noted changes and review them. Council reconvened and City Manager Balser reviewed the changes as presented: Section J on page 2 – three or more instead of several, Page 3 - #3 in criteria – deleted, #6 is modified to read: For property within downtown Louisville the project is

consistent with historic preservation goals and objectives, Page 4 - Shall instead of may - shall be referred at LRC expense.

Councilmember Maloney stated it needs to be clear what Council and LRC expectations are and what the framework for making decisions will be. For the rebate consideration he likes the new language of 50% for five years and 90% for 10 years as it is about long-term economic development and increasing property and sales tax. He would like Council to consider the impact of a development and the impact over time. He recommended being able to do an annual review to gauge the level of impact the project is having.

Councilmember Maloney asked what happens if the City is financially unable to rebate the funds; do we need language stating there have to be funds available for any rebates.

City Attorney Kelly noted the TIF funds would be LRC funds not a part of the City's General Fund. The City could not use TIF funds to backfill any municipal services.

Councilmember Stolzmann stated the changes do improve the document but thinks the Council needs to establish principles showing what this is trying to accomplish. She stated for many areas of Main Street you can no longer find blight so we should limit this funding for those areas to remedy that. She stated all government funds come from taxes or fees. We need clear policies for when we give out government subsidies. When we give tax rebates we are subsidizing. We need to clearly define the problem we are trying to solve; this is reactive not addressing goals we know we want to further. We need to identify the shortcomings we want to address. We need more foundational and goal setting first and then can discuss the tools we want to use to meet those goals.

Councilmember Leh suggested removing blight elimination as a criteria as that should already be the basis and these criteria are in addition. It should not be a separate criteria . We need to identify the particular items that need to be included and put specificity in the criteria without preventing the LRC from doing its job.

Councilmember Leh stated this policy should not be used to limit the scope of the blight determination. If we need to do that we should do it formally. Councilmember Stolzmann stated that was not what her comments were meant to do.

Councilmember Leh stated there could be more granular conversation but he was not sure if that is the work the LRC has been asked to do.

Councilmember Maloney stated the agreement between the Council and LRC has Council approving the LRC budget. If there are programmatic goals shared by Council, perhaps we need a budget discussion of what we value. If we want to budget for infrastructure, we should be clear and show that is what the Council values.

Councilmember Leh asked if the Council should set forth our priorities in a policy document in advance of the budget discussion or let this document guide the LRC and have a foundational discussion during the budget approval.

Councilmember Maloney felt this was a policy tool. He wanted to determine what the policy should be and then decide when and if it is used.

Councilmember Stolzmann stated to develop a sound policy the Council would need to have a discussion that has not happened. If goals and gaps had been determined, priorities and criteria could be better determined. We need to have a process that furthers community goals. If an application needs to be continued, it would be appropriate.

Mayor Pro Tem Lipton stated this policy should give Council guidance on how to process and review applications for TIF. There is interest in the business and development community to use this tool. This policy draft may not be perfect timing, but we do need something to fill the vacuum. Notwithstanding Councilmember Stolzmann's discussion of goals and plans, the area has changed considerably since we created the Highway 42 plan and the LRC. Downtown was of great concern then; Hwy 42 was very different and was a corridor ripe for change and reinvestment. We wanted to have tools to help facilitate that. The community is much different now in terms of economic vibrancy. We are dealing with old paradigms that don't necessarily fit today and have to do the best we can with what we have. The City Manager is working on looking at an economic development plan and we should brush off the Urban Renewal Plan and look at what we need to focus on today to move the community forward. Take time to do it right.

Mayor Pro Tem Lipton stated we need a policy in place now even if it gets revised in the future. He feels Council and the LRC have to work together and be consistent in goals, strategies, and reviews. He wants the collaboration to continue.

Councilmember Loo agreed with Mayor Pro Tem Lipton. She stated the document is workable and good. It may not be perfect but that shouldn't get in the way of coming up with some guidelines.

Mayor Pro Tem Lipton suggested criteria #6 should read: For property within downtown Louisville the project is consistent with the City's historic preservation goals and objectives.

Councilmember Leh stated the LRC and Council should work together; we should have a strong budget discussion about if the proper values are being met with the LRC budget.

Councilmember Keany agreed with Councilmember Loo this policy will likely be changed but it should move forward so we have something in place. He supports it as presented.

Councilmember Stolzmann noted this is LRC criteria, and asked how it applies to Council review.

City Attorney Kelly stated this is not a quasi-judicial process but a policy to guide a discretionary decision making process. It does not compel the Council to take any action one way or another. Even adopting this policy does not require Council to take action on any application, it is discretionary.

Councilmember Loo moved to approve the draft version as amended this evening plus language on “the City’s historic preservation goals”. Councilmember Keany seconded.

Vote: 6-1 Stolzmann voting no.

RESOLUTION NO. 10, SERIES 2019 – A RESOLUTION APPROVING THE PROPERTY TAX INCREMENT REBATE AGREEMENT WITH 712 MAIN LLC AND 722 MAIN LLC PURSUANT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE LOUISVILLE REVITALIZATION COMMISSION AND THE CITY OF LOUISVILLE –
continued from 3/19/19

City Manager Balser stated the Louisville Revitalization Commission (LRC) approved the attached TIF Rebate Agreement with 712 Main LLC and 722 Main LLC at their March 19, 2019 meeting. The agreement must also be approved by the Louisville City Council in accordance with the Amended and Restated Cooperation Agreement last approved on November 17, 2015. City Council originally took up the application on March 19, 2019.

She noted that Terraces on Main Street is an office and retail redevelopment project proposed by Boulder Creek Neighborhoods at 712-722 Main Street in downtown. The redevelopment consists of a new 22,020 sf office and retail building with 18 parking spots. Boulder Creek Neighborhoods is requesting a 90% rebate of the expected increase in property taxes generated by the redevelopment over a ten-year period.

Balser noted the Council Communication includes staff discussion of the criteria just approved as it applies to this request. The Council can approve, deny, modify, or further continue deliberations on the proposed TIF agreement.

David Sinkey, 712 Main Street, Boulder Creek Homes, giving the applicant presentation, stated he is confused listening to this conversation. There seems to be misunderstanding of how these projects work. The rebate is a rebate of the dollars received, the City would never have to refund revenue it has not received. He is also confused by the subjective discussion of blight. The Colorado Revised Statutes (CRS) define blight; once an area is deemed blighted, there is no subjective way to say one parcel or another is not blighted; there is no additional criteria needed, it is already designated as such. He finds it very frustrating the discussion is not accurate. The goals are clear in the Hwy 42 Plan. Discussing benefiting one company over another is not a proper question if a project meets the objectives. The goal of the TIF is to bridge the gap between economic feasibility and not having a project. Unless the financial gap is solved, the project can’t move forward.

He stated Council can deny the application. The project is trying to address dysfunction on Main Street. It doesn't function well as a retail corridor because of offices on the first floor. The project would bring first floor retail. If this project is funded with the rebate, it will not be using tax dollars from others. He asked Council to evaluate this project on its merits.

Councilmember Stolzmann noted Mr. Sinkey stated main floor offices are a blight factor. She asked if this project commits to bringing retail to the ground floor of this building. Sinkey stated it does not.

Public Comments

David Finamore, 720 Grant Avenue, noted the policy stated "projects must provide a unique and exceptional public benefit." He doesn't see that in this case. This is an office building. He does not support the application. He doesn't support the LRC and questioned what it has done for us. Businesses are failing and that is what we should be working on. Main Street is not blighted. He asked Council to deny this and turn their focus to the areas of the urban renewal district that really need help.

Mike Deborski, 601 Pine Street, stated he has property in the urban renewal district and the area has changed greatly since it was created. His cost to relocate would be detrimental to the business. TIF rebates would help companies like his to add a retail location. What is being missed is that this is incremental money we would not have had if there was no project.

Sherry Sommer, 910 S. Palisade Court, stated it feels rushed to put a document in place and immediately use it for an application so large. We need to define the public benefit of this project. Not every project in the urban renewal area (URA) is equal, Council should set priorities before making these decisions.

Mayor Pro Tem Lipton asked about the financials of the project. Rick Woodruff, Boulder Creek CFO, stated the debt is from doing the project for roughly \$100 per square foot for land value. Mayor Pro Tem Lipton wanted to validate that it reflects market value.

Mayor Pro Tem Lipton stated in principle he struggles with providing the full amount of rebate for what might be a two story office building. No one can guarantee first story will be retail, so he can't justify a full 90% rebate for what might be office. He suggested a 50% minimum and up to 90% if warranted year-to-year. He can't do the full amount for a two-story office and it would set a precedent for future requests for office buildings.

Councilmember Maloney suggested that knowing there is some uncertainty about the retail, perhaps look at the lower end of funding. If there is retail, perhaps raise that number. With the uncertainty of first floor commercial, only consider 50% for five years.

Councilmember Stolzmann stated there needs to be a unique situation and this is a two story office building and not a unique situation. She doesn't want to set this precedent for office buildings when we already get complaints rents are too high. She wants to send a clear signal on what type of properties we are trying to incentivize.

Councilmember Loo asked Mr. Sinkey why they were having trouble getting retail on Main Street. Sinkey stated for these buildings, one is too deep to function as retail and the other is a viable retail building but needs major remodeling which may not make financial sense. In general on Main Street, he feels his business provides a vital daytime population as would any office. The uniqueness of this proposal is to change what is functionally not working currently. More office would contribute to the retail community of Main Street. This project is unique because it fundamentally begins to change the density of office dwellers downtown. Building physical spaces designed for retail is the first step and having office workers to contribute would be an enormous benefit.

Mayor Muckle stated one of the most important things in Louisville has been what policies would be good for downtown and good for old town neighborhoods. As a result he supported the URA as we needed a walkable critical mass of people. While not an easy decision in the end, this is why he supports the building. Business owners often report a lack of day time population. The building meets the goal of improving retail opportunity on the ground floor and providing office space. He feels some of the requests made by Council for the new building may have created the financial gap that the developers now face.

Councilmember Stolzmann said Council did not request anything. The application was withdrawn and resubmitted with a new design.

Mayor Muckle said for this request we should help facilitate it in terms of offering to give back funds that wouldn't be generated otherwise. The reasons he supports the building are what make it reasonable to support the request. He agreed with the concern about ending up with an office building, but this new building will be current modern retail space and have a better chance of generating sales tax in that location that we don't have now.

Councilmember Loo stated she remembers very vocal Council and public objection to the original application. The applicant listened to the meeting and came back with this design.

Councilmember Loo stated this application boils down to a bird in hand versus possibly nothing. It guarantees a building that is worth much more than the current one and after 10 years all of the tax money will come back to all of the entities and it will be several million dollars more than what is there now. It is true we don't know what else might happen, but we know it will be better than what is there. She is interested in looking at the 50-90% range.

Councilmember Keany stated he feels similar to Councilmember Loo. He is not sure 90% is appropriate. He hears from many businesses downtown that the daytime population is

not enough to support the businesses. He doesn't think downtown is doing as well as people think it is; maintaining the downtown population is important. If we don't move forward with this, this business or others may move elsewhere.

Councilmember Leh asked Sinkey if funding at 50% would be sufficient to get the project done. Sinkey stated without the TIF the project assumptions show a return on equity of .15% and they need to be in the 8-12% range. No one would put capital in this project at that level of return. With adding the TIF at 90%, the return on equity to 7.3% which is below the threshold for private investment. The company still brought it forward to test the question to know if this community will use this tool to see this project move forward. 50% TIF would put it to a 4-5% return on equity and that would be a very tough level for this to succeed. The company wants to build this in hopes of keeping their business in downtown. The goal is not just to keep Boulder Creek downtown but to get this building to align the daytime population in downtown. At 50% this project does not make sense.

Mayor Pro Tem Lipton stated he is supportive of TIF at 50% for ten years with an incentive to the developer if they are able to maintain retail tenancy, an increase to as much as 90%. He felt that is fair and demonstrated the willingness to use the tool.

Councilmember Loo was willing to take a risk and do 90% to see if this can get built noting even with this funding it may not move forward.

Councilmember Leh stated he came to Council with fiscal sustainability of the City as a goal and a frame through which to view this. He has heard from businesses in the blighted corridor that the financial situation is pretty precarious. We have a wonderful downtown but businesses are not doing as well as many think. Many complain about lack of foot traffic. Nights and weekends are good but during the rest of the time it is negligible. This tool is a way to prevent blight from expanding if we end up losing more businesses.

Councilmember Leh stated he is also thinking about what other communities do. Communities around us are beating us on some kinds of business development. If this doesn't get built he wonders if other developers will bring anything forward. He stated it is short sighted saying there is no downside to denying this. He wondered who will apply in the future if we don't support proposals such as this. Business people can't rely on a sliding scale on this. He supports 90% as that is what it will take to get this done and will potentially energize others to do the same. It is a risk worth taking.

Mayor Pro Tem Lipton stated community character is to not have all office, approving this will encourage more office buildings. He wants to be a bit conservative on how we do this or we could have a downtown of only office and discourage other users.

Councilmember Stolzmann felt all the potential consequences of approving this had not been analyzed. We should not rush this through just to be reactive. She does not support the application, particularly at the higher level.

Councilmember Maloney noted this vote is to approve the agreement between the LRC and Boulder Creek. If we want different terms it will have to come back to us. He asked if Council can give input to the LRC to renegotiate the agreement. City Attorney Kelly stated if changes are substantial Council would probably need to give the LRC more time to discuss it and have a new draft brought back to both the LRC and the Council to consider.

Councilmember Maloney wants to be cautious about doing this from the dais without more information and deliberation. He would like to see the third party financial review noted in the criteria; he would like to return the application to the LRC to apply the new criteria and bring it back.

Mayor Muckle agreed. He moved to continue the matter to September 17, 2019. Councilmember Keany seconded.

Councilmember Loo stated a negative picture has been painted of this building. The flip side is even as an office building it might bring the daytime population we need to have the next development be all retail. It doesn't have to be either/or.

Vote: all in favor.

Members voted 7-0 to amend agenda to move item E up on the agenda to accommodate those in the audience.

**DISCUSSION/DIRECTION – PROPOSED BALLOT QUESTIONS REGARDING
IMPOSING AN EXCISE TAX ON RETAIL MARIJUANA CULTIVATION FACILITIES
AND WHETHER OR NOT MARIJUANA CULTIVATION FACILITIES SHOULD BE
ALLOWED IN INDUSTRIAL ZONE DISTRICTS**

City Attorney Kelly stated in early 2019, the City Council updated and amended its marijuana regulations. City Council directed staff to draft a ballot question asking voters whether retail marijuana cultivation facilities should be allowed in the industrial zone districts and subject to an excise tax. Two draft ordinances are proposed with draft ballot language for City Council's consideration.

The draft ordinance includes proposed ballot language regarding imposing an excise tax only if retail marijuana cultivation facilities are permitted within the city. The proposed tax rate is set at a percentage rate of 5% and City Council is authorized to increase percentage rate up to a maximum limit of 10% without further voter approval. The tax would only be imposed if retail marijuana cultivation was permitted in the City which would happen by voter approval of the second ballot question or by other Council or voter action in the future.

The City is estimating excise tax revenue of \$100,000 in the first full fiscal year but is recommending using an estimate of \$200,000 to avoid a potential under estimate and refund. Sample earmarking was included in the packet for Council review.

The 2nd proposed ordinance submits to the registered electors of the City the question of whether to permit such retail marijuana cultivation facilities within industrial zones of the City, subject to the excise tax. Staff suggests Council listing specific regulations within the ordinance so it does not need to be done following the election because of the short timeframe. We don't want an issue of cultivation beginning without regulations in place.

City Manager Balsler stated the Finance Committee supports the language.

Councilmember Maloney stated the Finance Committee only looked at the ballot language. They did not discuss the regulations staff is suggesting be included. The Finance Committee did support Alternative 2 as imposing the five to ten percent seemed reasonable and middle of the road compared to what other cities have done. They support using the funds for enforcement and for the general purposes of the City; the intent to cover costs for these uses but also have flexibility for other uses.

City Attorney Kelly stated the public finance counsel has reviewed the language and confirmed it complies with TABOR.

Mayor Muckle stated to be clear the ballot questions would ask the voters if they want to allow cultivation in the city and whether to impose an excise tax on it.

Public Comments

Patricia Ross, 3361 W. Monmouth Ave., Englewood, pooled time with Joyce Ross, 924 McKinley, stated her family has lived in town for many years. She does not want this on the ballot. Council should consider odor issues, during harvest time the smell is there and can make people sick. Council should consider if the tax will cover the costs of regulations and staff, additional cost for law enforcement, and environmental impacts including the use of water. Can the City enforce seed to sale regulations? The market is saturated and it goes to the black market. Will this affect the rents? She stated this is not my home town values; do not move forward on the ballot issues.

Michael Deborski, 601 Pine Street, stated he has no issues with people using marijuana responsibly or using it for its medicinal value. He does not however like to see the large ads for marijuana retailers in the newspaper and it becoming the norm in Louisville. It does not represent our family values. We need to retain that and nurture it; that is our brand. We should not put that and our resources at risk for this small return. He urged Council to not put on the ballot.

Councilmember Stolzmann stated Council is trying to listen and this is why this is going to ballot rather than approving it in February. We will do what the voters want us to do. She is supportive of language recommended by Finance Committee.

Mayor Muckle noted there are no specific proposed locations and it would require it all to be indoors. He noted there are ways to do this that have less impact. This would only happen if the voters approve it and we decide to enact it.

Mayor Pro Tem Lipton supports for the ballot language as written and would like staff to bring back regulation details to discuss in July.

City Manager Balsler asked if there is any direction on limiting the total amount of cultivation in the City, the staff report recommended 150,000 sf. Director Zuccaro stated this is what size we think we have the staff capacity to regulate and address.

Councilmember Keany asked why it needs to go into effect on January 1 rather than take more time to do regulations and have the effective date be July 1.

City Attorney Kelly stated if the tax doesn't pass then cultivation won't be allowed. For the tax, TABOR requires an estimation of the first full fiscal year of tax revenue which if started July 1 would be 2021. This would make it difficult to estimate that far in the future.

Councilmember Keany noted CTC has said they will not allow this and does this create an issue with someone wanting to go into CTC. City Attorney Kelly stated there is no conflict as CTC has private covenants that would take precedence.

Mayor Muckle stated perhaps go lower than 150,000 sf and include language about facilities being self-contained and controlling odor and water.

Staff will bring back the ordinance for ballot language and the regulations.

DISCUSSION/DIRECTION/ACTION – COLORADO COMMUNITIES FOR CLIMATE ACTION 2019-20 DRAFT POLICY PRIORITIES

Deputy City Manager Davis stated the City joined Colorado Communities for Climate Action (CC4CA) in 2018. CC4CA is a coalition of 27 local governments working to strengthen state and federal climate policy. Each year, CC4CA adopts policy priorities that set the group's state and federal policy agenda for the year. CC4CA's policy priorities for 2019-2020 will reflect unanimous agreement among the coalition.

In late June, CC4CA will hold its annual retreat to finalize and adopt its policy priorities for 2019-20. Councilmember Stolzmann, the City's CC4CA representative, will attend the retreat along with staff. There will be discussion by the many governments to reach 100% consensus, so Councilmember Stolzmann would like direction on which policies may allow for some flexibility and others that may not. She noted many of the goals relate to transportation, solid waste, community resilience, agriculture, and social justice.

Councilmember Stolzmann stated the policy document is used for lobbying throughout the legislative session. The group looks to have 100% agreement on this from its members so she needs to know what is nonnegotiable in the document.

Mayor Muckle stated he agrees with the broad topics and can be flexible with the other members.

Councilmember Maloney stated he is cautious about supporting statewide issues that might affect poorer counties. #16, he is worried it disenfranchises those with older cars who can't afford to replace them and only drive them very little. #17, he would rather see that help people who can't afford cars than those who can. #21 makes sense in high density areas but not in rural areas. #27 disinvestment in fossil fuels is a hard rule to live by and may not be fiscally prudent to do at all times.

Mayor Muckle agreed we don't want to disproportionately affect poorer parts of the state.

Councilmember Stolzmann stated she has some proposed language that might help address equity without being rigid. She is hopeful some of those can be adopted by the full group and some of the language can be strengthened. She will try to use this as a framework to reduce carbon emissions in a way that is equitable and achievable.

Mayor Pro Tem Lipton left the meeting at 10:30 pm.

DISCUSSION/DIRECTION – PROPOSED EXCESS TAX REVENUE TABOR BALLOT ISSUE LANGUAGE

City Attorney Kelly stated that in 2016 the voters approved a sales and use tax for the recreation of 0.15 percent. The City exceeded those 2018 sales and use tax revenue estimates for Ballot Issue 2B and the total fiscal year spending estimate for 2018.

In connection with new taxes, TABOR requires the distribution of a ballot issue notice which requires the City disclose: "For the first full year of each proposed district (City) tax increase, district estimates for the dollar amount of each increase and of district fiscal year spending without the increase." For 2018, the first year of collection of the recreation tax, the notice estimated the dollar amount of the increase to be \$575,000 and the estimated 2018 fiscal year spending without the increase to be \$33,470,000.

Absent later voter approval, TABOR requires a refund if either the revenue generated by the new tax exceeded the estimate or the City's total 2018 fiscal year spending without the tax increase exceeded the amount in the TABOR notice, and requires the tax rate be reduced up to 100 % in future years in proportion to the combined dollar excess. The City's revenues exceeded both estimates and thus, absent later voter approval to retain this excess, refunds will be due for both in addition to requiring a rate reduction.

Therefore, should the voters not approve the City retaining the revenues exceeding the estimates, the City will need to refund the revenue collected above the \$575,000 estimate for the new tax (\$270,795) plus the amount the City's 2018 fiscal year spending with the tax increase exceeded the estimate in the TABOR notice (\$4,662,787) but the amount of refund would be capped at the total revenue collected for the 0.15% tax in 2018 (\$845,795). Additionally, a rate reduction would be applied in future years; this would likely result in the rate being reduced to 0.0%.

At the April 1st Finance Committee meeting, members reviewed two alternative TABOR ballot issues. The first would seek voter approval to retain excess revenues received from the 2016 sales and use tax increase and retain the 0.15% rate increase. The second would seek voter approval to retain the 0.15% rate increase, but not retain revenues in excess of the revenue estimates set forth in the 2016 Tabor notice (which would provide a refund of \$845,795). The Committee supports the Council referring the first proposed alternative to the voters asking for no refund and retaining the 0.15% rate increase.

Councilmember Maloney moved to use the Finance Committee recommendation of no refund and retain the rate; Councilmember Stolzmann seconded.

Voice vote: all in favor.

CITY ATTORNEY'S REPORT

City Attorney Kelly stated there is a PUC hearing this week on the quiet zone application.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

Councilmember Loo reminded people the Business Forum is on Thursday at 8 am. She added the Parks board will be sending Council a memo about various discussion points on the subdivision landscape entries. They are also working on the park naming.

Mayor Muckle stated Metro Mayors and MCC meetings have discussed issues of TABOR and Gallagher and discussion about possible regional taxing for infrastructure. Councilmember Stolzmann added there are other options being explored.

Councilmember Keany noted Louisville hosted the Boulder County Consortium of Cities last week.

Deputy City Manager Davis stated communities are working to push the quiet zone issues on all fronts.

ADJOURN

Members adjourned at 10:42 pm.

Robert P. Muckle, Mayor

Meredyth Muth, City Clerk